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February 14, 2014

California Coastal Commission
c/o Sea-level Rise Workgroup
45 Fremont St., Suite 2000
San Francisco, CA 94105

Dear Ms. Ewing and Ms. Papendick:

SUBJECT: San Mateo County Comments on the California Coastal Commission Draft Sea-Level Rise Policy Guidance

The County of San Mateo appreciates the Coastal Commission's effort to provide guidance to local governments about the impacts of sea-level rise and how these impacts should be taken into account during the development of local coastal programs and the processing of coastal development permits. The draft guidance document contains helpful information in this regard, and is generally consistent with the strategies currently being applied by the County.

The following questions and comments identify where additional guidance and clarifications are needed. They also point out the County's questions and concerns about some of the methods and assumptions contained in document. Finally, they underscore the importance of continuing the Commission's efforts to improve the LCP amendment process, upon which implementation of the guidance largely relies.

I. Need for Additional Guidance

A. Jurisdiction

How does the Commission recommend that local governments address the changes in Coastal Development Permit jurisdiction that will accompany changes to the location of Mean High Tide Line? What information should applicants provide in this regard, and how should that information be used?

B. Infill Development

Proposals to develop vacant bluff top lots that are directly adjacent to developed lots with existing shoreline protection devices often raise difficult issues for local governments and the Commission. In some such instances, the Commission has endorsed the development of sub-regional solutions that allow gaps to be filled. The absence of this strategy from the guidance document is inconsistent with the Commission support for planning efforts that are currently underway.

C. Pre-existing and Legal Non-Conforming Structures

Local governments and the Commission are also faced with difficult decisions regarding proposals to install shoreline protection devices in areas where no such devices currently exist, in order to protect structures that may have reached their theoretic end of life (e.g., Martins Beach). How does the Commission recommend that local governments apply Coastal Act Section 30235, which states that seawalls shall be permitted when required to protect existing structures, to the development of local policies and regulations that address these situations?

D. Special Districts and Transportation Agencies

The draft guidance document suggests that local governments analyze and address the risks and constraints to an area's water and sewer facilities, transportation systems, and other critical infrastructure. In most cases, the special districts and transportation agencies that provide these services are best equipped to address these issues. In addition, existing Commission issued permits and public works plans establish the Commission as the decision-making authority regarding many of the actions that special districts or transportation agencies may need to take in response to sea-level rise. The guidance document should acknowledge the important role that the Commission, special districts, and state and regional transportation agencies play in providing local governments with the information needed to update LCPs, and identify the ways in which this can be accomplished.

E. Takings

The draft guidance states that it "does not address how sea-level rise may involve private property rights and takings issues in specific cases" (page 20). Yet it suggests that local governments institute policies that prohibit landowners from making use of lands that may become habitat, wetlands, or hazardous in the future. Given that all local governments will need to justify such exactions as being connected and proportional to a project's impact, the Commission staff is in the perfect position to provide statewide guidance on this important and difficult issue.

II. Guidance that Requires Clarification, Additional Information, or Reconsideration

A. Impact Assessment Methodologies

While the County concurs with the overall framework for conducting impact assessments presented by the guidance, some of the specific components require further research and development. As recognized by Section VI of the document, further work is needed to: understand impacts to coastal access and recreation; assess the vulnerability of wetlands and sensitive habitats; establish a methodology for estimating changes in erosion rates; and, quantify the potential effects on coastal aquifers.

The County recognizes that the time to plan for sea-level rise is now, and that doing so requires the use of the best available science, even if the science is still evolving. Nevertheless, in order

for the associated guidance to be effective, it needs to be specific and developed enough to provide clear direction on how it should be followed. Unfortunately, the methodologies for assessing the particular impacts noted above are not specific or developed enough to enable accurate or dependable analyses.

The draft guidance document states that local government should assess best available science on sea level rise every five years and update their LCPs as needed, but does not acknowledge the importance of regular updates to the Commission's guidance. Better information from the Commission regarding the way in which it expects local governments to analyze the above impacts is needed before such analyses become an information requirement, or relied upon for important land use decisions.

B. Project Lifespan and Planning Horizon

The guidance is unclear regarding the concepts of project lifespans and planning horizons. What is the Commission's recommended "life of structure" that local governments should use to determine setbacks for residential, commercial, industrial, and public works buildings? How does the typical 20-year plan horizon noted on page 122 relate to guidance suggesting that anticipated sea levels in 2100 be considered?

C. Planned Retreat and Transfer of Development Rights

Given the challenges and complexities of planned retreat and transfer of development rights programs, guidance that calls on local government to consider developing such programs should be accompanied by references to successful examples, and/or suggestions about how to establish and administer such programs.

D. Public Acquisitions and Easements

Suggested policies that call for easements and acquisitions are of questionable financial feasibility and raise issues regarding long-term management, such as which agencies or organizations will be responsible for easement enforcement and property maintenance. The establishment of statewide or regional programs that would provide financial and technical assistance needed by property owners to take necessary actions with their land should be given equal consideration.

E. Sand, Habitat, and Access Management Plans

Similarly, suggestions that local governments establish policies calling for the development of various types of management plans do not acknowledge the difficulties of financing and implementing such plans, particularly in areas with diverse ownership interests. Who should be responsible for preparing and carrying out these plans, and what can be done at the statewide level to provide the necessary support?

III. Needed Improvements to the LCP Amendment Process

A. Filing Requirements

One of the most significant problems local governments encounter during the LCP amendment process is satisfying the Commission's requests for additional reports, analyses, and information beyond that which is contained in the local administrative record. While the guidelines may help address this issue by identifying the information expected by the Commission, the extensive resources required to compile this information should be considered. The Commission and other state agencies could help address this challenge by funding or conducting sea level rise impact assessments at a regional level, as well as by providing more active participation in the local review process. The Commission should take a leadership role in this regard, rather than placing this responsibility on local governments, as stated by Principle 16 on p. 27.

In addition, amendments that are initiated for a specific purpose often get held up at the filing stage due to remotely tangential issues, and associated requests for additional information. The guidelines should make it clear that the recommended information and analyses will only be required when the specific changes proposed by an amendment raise issues related to sea-level rise.

B. Conflict Resolution

Commission participation in the local decision making process is also needed to facilitate the resolution of policy conflicts in an acceptable manner. The impacts of sea-level rise are bound to require difficult decisions about the relative importance of one type of coastal resource over another. The earlier the Commission can gain an understanding of local views on such matters and provide input on these decisions, the less it will need to suggest modifications that may run contrary to the thoughtful compromises reached during local review.

C. Review Period

The identified need to update plans on a regular basis to account for new information and changed circumstances necessitates a much more efficient and predictable certification process. With regard to LCP updates that address sea-level rise, the Commission can make the amendment process more efficient by: conducting the development of sea-level rise impact assessments at the regional level, thereby eliminating the need for each jurisdiction to undertake costly and redundant analyses, and ensuring that the information adequately addresses Commission expectations; providing technical and financial support for the development and implementation of the specific resource management plans that should accompany such updates; and, actively and consistently participating in all stages of the local review process.

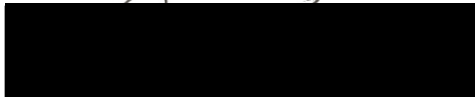
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The County appreciates the opportunity to comment on the draft guidance document, and hopes that the above feedback will help make it more useful.

Sincerely,

A black rectangular redaction box covering the signature of Dave Pine.

Dave Pine, President
San Mateo County Board of Supervisors

A black rectangular redaction box covering the signature of Don Horsley.

Don Horsley, Member
San Mateo County Board of Supervisors